

LABOUR DEPARTMENT

The 27th July, 1978

No. 11(112)-3 Lab-78/7015.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad; in respect of the dispute between the workmen and the management of M/s. H. P. Industries; 15/2, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 184 of 1976.

between

SHRI RAJ PAL, WORKMAN AND THE MANA-
GEMENT OF M/S. H. P. INDUSTRIES, 15/2,
MATHURA ROAD, Faridabad.

Present :

Shri Bhim Singh Yadav, for the workman.
Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/993-C-76/32580, dated 1st September, 1976, the Governor of Haryana, referred the following dispute between the management of M/s. H. P. Industries, 15/2, Mathura Road, Faridabad and its workman Shri Raj Pal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10, of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Raj Pal was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 13th January, 1977.

(1) Whether the workman was in the employment of the management?

(2) If issue No. 1 is proved, whether the termination of his services is justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the workman. The workman examined one Shri Balbir Singh, Supervisor of the management who had brought the wages payment register from July, 1973 to June, 1974. He deposed that in this register the name of the workman concerned finds place nowhere, although he submitted that he could not bring the register from January, 1973 to June, 1973. Then the case was adjourned and he was directed to bring the register from January, 1973 to June, 1973, which he brought on the next date of hearing. Referring to that register he deposed that he did not find the name of the workman concerned even in this register anywhere. However, he stated that there is an entry of the workman from July, 1972 to 13th November, 1972, and thereafter, i.e., after 13th November, 1972, his name appeared nowhere. This is the evidence of the workman. I have seen the demand notices in which the workman stated that he was employed in May, 1973 and was dismissed on 4th June, 1976. The demand notice of the workman is not corroborated by the evidence of the workman that he selected to lead before this Tribunal. His name nowhere appeared in the attendance register or payment of wages register from May, 1973 to 4th June, 1973, i.e., his name did not appear on any day during this period. Therefore, the question of termination of his services did not arise. From the statement of W. W. 1, I can conclude that the workman was not an employee of the management after 13th November, 1972, although he was their employee prior to 13th November, 1972. The evidences produced by the workman contradicts his own case. Then the workman examined himself as W.W. 2 who stated that he was employed in May, 1972, and was dismissed on 4th June, 1976. This looks to me concocted a piece of evidence and against his own demand notice. W.W. 1, bringing some record of the management had deposed earlier that the workman's name was found in May, 1972 upto 12th November, 1972, and this name nowhere appeared thereafter, hence the workman stated that he was employed in May, 1972, whereas in his demand notice, he had stated that he was appointed in May, 1973. The workman further stated that in May, 1972, he was appointed as a helper, then after 5/6 months he

worked as a cleaner and thereafter as a Truck Driver. He tried to prove that the truck belonged to the management, in cross examination of this witness, but even this was not proved. The workman also admitted that his claim statement was wrong in respect of his date of appointment. The workman even contradicted his own pleadings. The evidence that he lead did not support his case. Then the management examined M.W. 1 Shri Balbir Singh who stated the same thing as W.W. 1.

As a result of discussions of the evidence, I decide issue No. 1 against the workman.

ISSUE NO. 2

As issue No. 1 had not been proved in favour of the workman, this issue did not arise. The question of termination of the services of the workman did not arise at all.

I, therefore, answer the reference and give my award that the workman was not in the employment of the management after 13th November, 1972, the workman wrongly stated in his demand notice and claim statement that he was employed by the management in May, 1973 and was discharged on 4th June, 1976. In May, 1973 and thereafter the workman was never in the employment of the management and hence the question of termination of his services does not arise. He is not entitled to any relief.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 12th June, 1978.

Endorsement No. 601, dated the 19th June, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 19th June, 1978.

No. 11(112)-3 Lab-78/7016.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal; Faridabad; in respect of the dispute between the workman and the management of M/s. Pherose and Company, Pvt. Ltd., 18-K.M. Stone; Mathura Road; Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 134 of 1974

between

SHRI GORAKH NATH, WORKMAN AND THE
MANAGEMENT OF M/S. PHEROSE AND
COMPANY, PRIVATE LTD., 18-K.M. STONE,
MATHURA ROAD, FARIDABAD.

Present :

Shri Madhu Sudan Saran Cowshish, for the
workman.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/FD/74/31486, dated 4th September, 1974, the Governor of Haryana, referred the following dispute between the management of M/s. Pherose and Company Private Limited, 18-K. M. Stone, Mathura Road, Faridabad and its workman Shri Gorakh Nath, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of
Shri Gorakh Nath was justified and in
order. If not, to what relief is he
entitled?

On receipt of the order of reference, notice were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 10th March, 1976.

(1) Whether the reference is bad in law
for the reasons as stated in prelimi
nary objection No. 1 ?

(2) Whether the management struck off the name of the workman from the rolls of their employees, as a result of his long continued absence

(3) Whether the termination of services of the workman was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management. The management examined their time keeper and General Clerk Shri Narinder Kumar as M.W. 1 who deposed from the attendance register that the workman was marked absent with effect from second shift of 17th April, 1974 to 31st May, 1974. He proved some documents Ex. M-1 to M-8. He also filed an extract from attendance register for the months of April, 1974 and May, 1974. In April, he is marked absent from second period of 17th April, 1974. He is continuously absent upto 31st May, 1974 and thereafter there is a remark "Left". This extract is Ex. M-1. Although in two days the workman is shown as on weekly off, i.e., shown on 21st April, 1974 and 3rd May, 1974. He also proved certain letters sent to the workman by the copies thereof produced by the management. They had also brought despatch register, which, he deposed, was in his hand. He also proved a letter sent to the Labour Inspector, that was sent by ordinary post on 1st June, 1974. No weight can be attached to this letter as the workman's name was discontinued from the rolls on 31st May, 1974. This witness in cross-examination admitted that the address of the workman had been recorded by the management in the Adult Register as required in the Factories Act and that he has not brought that register. He further admitted in cross-examination that from 17th April, 1974, continuously upto 30th April, 1974; formerly there were some dots in Blue Ink in the column provided for attendance and 'A' denoting absent was converted in red ink subsequently. He further admitted in cross examination that initially a dot was put in the register while expecting the attendance of the workman the same day after the beginning of his working hours but his absence is marked on the next day, finding that he did not attend and this process continued in respect of this witness upto 31st May, 1974. He further admitted that the management is maintaining a receipt

register that letters like mark 'A' are not entered in that register.

In this case there is a very nice point of fact which required determination. The case of the management is that the workman absented himself after 17th April, 1974, and the case of the workman is that the management did not take him on duty from 18th April, 1974. There is no difference in the time stated by the parties. Had there been some difference or gap between the time of absence as stated by the management and the time of disallowing entry to the workman by the management as stated by the workman, it would have been easier to decide on the point of fact but in this case, there being no difference between the time as stated by both the parties, the determination of question depends on the intention that can be gathered from the correspondence between the parties. I would gather the intention of the parties from their correspondence and from the facts and circumstances of the case, when I come to decide issue Nos. 2 and 3. But I first give my decision on issue No. 1.

ISSUE NO. 1

Issue No. 1 relates to preliminary objections in the written statement of the management as to cause of action on the basis of no demand notice served on the management. The demand notice is addressed to the Manager of the management. It is dated 13th May, 1974, about 25 days after the dispute arose. I do not find any defect in this demand notice. Moreover, this question is of no importance, as the Hon'ble the Punjab and Haryana High Court has not found any defect if the demand is not directly raised with the management. This controversy has been laid to rest by the said decision of the Hon'ble the Punjab and Haryana High Court, hence I decide issue No. 1 against the management.

ISSUE NO. 2

The evidence of the management oral as well as documentary is to the effect that the workman remained absent from 18th April, 1974 to 31st May, 1974. The management waited upto 31st May, 1974, and thereafter discontinued his name on the rolls with effect from 1st June, 1974. The workman states that the management disallowed him duty on and from 18th April,

1974. The management has proved several letters asking the workman to report for duty. Here the plea and arguments of the workman is that the said letters were not sent to him on his address as given by him to the management when he started serving the management, in that address he had given the name of the village Mowla Maharajpur.

Now I discuss the letters of the parties which will throw light on the intention of the parties and will decide the point in controversies between the parties. Exhibit M-3 is the letter by the management addressed to the Labour Inspector dated 1st June, 1974. This letter cannot throw any light on, the point in controversies, as this letter was sent by the management after when they had acted by striking off the name of the workman. This is only information to the Labour Inspector that the name of the workman has been struck off, although this letter also contains a mentions of the ground of the management regarding absence of the workman. There is one registered letter addressed to the workman by the management which was returned by the postal authorities undelivered on the reasons that the workman was not found at his home, and resides outside. This letter is addressed at village Pakhwali Karamdinpur, District Gazipur. trict Gazipur (U.P.) The workman stated that he had given his address to the management of village Mowla Maharajpur.

I find another letter issued by the management to the workman Ex. M-8 which is dated 14th May, 1974. This letter required the workman to be present in the factory within three days of the receipt of this letter and that the management had issued two letters previously to the workman. This letter is also addressed at village Pakhwali Karamdinpur District Gazipur. This letter bears a remark that its copy was sent to the workman at his address village Mowla Gram Faridabad but issuance of the copy is not traceable. Another letter of the management to the workman dated 9th May, 1974, Ex. M-7, its contents are similar to that of Ex. M-8. It is also addressed on the same address. Similar is Ex. M-6 dated 1st May, 1974, from the management to the workman sent by registered post on the same address. There is a A.D. Form Ex. M-10 relating to a registered letter. None of these letters have been sent to the workman at his address villtge Mowla Maharajpur.

Then I find Ex. M-5 a letter from the management to the workman dated 18th April, 1974, addressed at the same address. This letter reads that the workman had committed acts of misconduct of 15th April, 1974, and on 17th April, 1974. He was warned that the workman should obey the rules of the factory otherwise his name shall be struck off the rolls of the company. This letter bears a remark registered A.D. A registered cover and A.D. Form Ex. M-2 is on the file which was not opened by the parties. Its registration No. is 144, dated 18th April, 1974. This registered envelop is addressed to the workman at his address given below:—

Shri Gorkh Nath, C/o
House of Parmal Singh.
Mowla Maharajpur, Faridabad.

I think the original of Ex. M-5 dated 18th April, 1974, might have been sent in this registered cover Exhibit M-2 bearing registration No. 144, dated 18th April, 1974, together with A.D. Form. This registered cover bears a remark of the postman that the addressee was enquired about in the colony for delivery of this letter but the postman was told that no such man was there. I think the contents of a registered cover shall throw light in order to find out the truth, hence I want to open it, to find out as to what has been written in the letter contained in this registered cover. Before opening this registered cover, I have to mention that there is another letter from the management to the workman Ex. M-4, dated 15th April, 1974, addressed at village Phakwali post Karamdinpur, District Gazipur reading that the workman had assaulted another workman on 13th April, 1974. He was warned, that in case he repeated such acts in future he shall be punished as per rules. Ex. M-1 is an extract of attendance register which I have already discussed. Mark 'A' is a letter to the workman from the Labour-Cum-Conciliation Officer asking him to send 5 copies of demand notice. Ex. M-9 is a letter from the Labour Officer-cum-Conciliation Officer to the Manager of the management fixing the date of conciliation. Ex. M-10 is a letter from the workman to the management, dated 22nd May, 1975, stating the workman was forcibly forbidden from duty from 18th April, 1974, and asking for payment of his dues. This is the whole of the correspondence between the parties.

Now, I open the registered cover Ex. M-2 in order to reach at the truth (opened and letter

from it taken outside). This letter taken out of Ex. M-2 registered cover is the original of Ex. M-5, dated 18th April, 1974, reading that the workman had quarrelled with supervisor a day before and began to quarrel with other workman inside the factory. Further reading that the workman was warned on 15th April, 1974, and the workman again disobeyed the rules of the factory on 17th April, 1974, further warning the workman that in case the workman did not obey the rules of the factory, his name shall be struck off from the file. Reading this letter I can safely gather the intention of the management that they had the intention to strike off the name of the workman from the rolls. It is further to mention that this letter has been sent to the workman at his address of village Mawla Maharajpur, Faridabad, whereas other letters issued after this letter have not been sent to the workman at this address, although those letters bears an endorsement that copy of this letter was sent to the workman at this address also but there is no proof of sending those copies. Moreover, those endorsement relating to issue of copy of the letter described the address as Mawla Maharajpur. Although this letter was not received by the workman, but it did not matter. He might have gone out of his house, guessing the contents of this letter.

After reading the original of Ex. M-5, after taking it out of the registered cover Ex. M-2 opened by me, I am of the opinion that it was management who did not allow entry to the workman for attending his duty.

The plea of the management that the workman absented on 18th April, 1974, and thereafter is not believable in view of Exhibit M-5 and its original contents in Ex. M-2 (the letter taken out of Ex. M-2 has been placed in Ex. M-2). I think it essential to exhibit this original letter, dated 18th April, 1974, which has been placed in Exhibit M-2 by me. I exhibited as M-2/A. As the registered cover which contained the original letter Ex. M-2/A has been exhibited as M-2 by the management, therefore, it is necessary after reading this original letter to mark it as Ex. M-2/A, as now the registered cover is in open condition. This explains as to why the management did not send other letters at the address of the workman at village Mawla Maharajpur and sent them to village Phakwali, Post Karamdinpur, District Gazipur.

Ex. M-5, Ex. M-2, and Ex. M-2/A stated that the workman had committed an act of misconduct and the management had warned the workman twice that in case he dis-obeyed the rules and repeated such act, his name shall be struck off. This intention of the management has become apparent and is proved. Thereafter the management did not allow duty to the workman, marked him absent and after a period of about one month and 12 days struck his name off the rolls. This the management did in order to prepare their defence, so that they could prove absence of the workman for a very long period, which intun to substantiate their plea if occasion arose. Ex. M-5, M-2 and M-2/A convince me that the management dis-allowed duty to the workman and marked him absent and after a passage of very long period to struck the name of the workman of the rolls. This device was adopted by the workman in preparing their defence for future and to fore-stall the case of the workman. I, therefore, hold that the management struck off the name of the workman from their rolls but not as a result of long continued absence of the workman. Rather the workman was not allowed duty by the management. The management chose this course of action instead of holding a domestic enquiry into a misconduct. After the acts of misconduct are to be discouraged but when there are such allegations, it is justiceable and proper to hold domestic enquiry. The letter dated 18th April, 1974, Ex. M-2/A and the copy Ex. M-5 do not mention single word regarding absence of the workman when the management alleged that the workman absented in the second period of 17th April, 1974.

As a result of my discussion of the evidence as above, I decide issue No. 2 against the management.

By striking off the name of the workman from the rolls, the management terminated the services of the workman and the termination of services of the workman, in the circumstances, narrated and discussed above, was neither justified nor in order. I, therefore; decide this issue against the management.

As a result of my findings on the issues, I answer the reference and give my award that the termination of services of the workman concerned Shri Gorakh Nath was neither justified nor in order. He is entitled to reinstatement

with continuity of service with full back wages as the management had no where pleaded that the workman is employed gainfully elsewhere.

NATHU RAM SHARMA,

Dated the 15th June, 1978.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 602, dated the 19th June, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 19th June, 1978.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3Lab.-78/7221.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s. Payon Tailors Ltd. 14/1, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 117 of 1977

between

SHRI MAHABIR SINGH, WORKMAN AND
THE MANAGEMENT OF M/S. PAYON-TAIL-
BROS LIMITED, 14/1, MATHURA ROAD,
FARIDABAD.

Present:

Shri H. S. Gill, for the workman.

Shri C. M. Lall, for the management.

AWARD

By order No. ID/FD/264-77/27727, dated
27th July, 1977, the Governor of Haryana,

referred the following dispute between the management of M/s. Payon-Tailors Limited, 14/1, Mathura Road, Faridabad and its workman Shri Mahabir Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the dismissal of Shri Mahabir Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 22nd November, 1977.

(1) Whether the domestic enquiry held by the management is fair and proper and in accordance with the principle of natural justice?

The case was fixed for the evidence of the management. The management examined Shri K. C. Sehgal, the Enquiry Officer, as M.W. 1. The management closed their case.

Then the case was fixed for the evidence of the workman. The workman examined himself as W.W. 1 and closed his case. Then the case was fixed for arguments on the vires of the enquiry. Arguments have been addressed and heard. I have gone through the evidence oral as well as documentary. I have also gone through the enquiry proceedings and the finding of the enquiry officer. Now I give my finding issue wise.

ISSUE No. 1

M.W. 1 proved Ex. M-1, letter of his appointment Ex. M-2, enquiry proceedings and the documents produced in enquiry proceedings and the charge-sheet Ex. M-3 and M-4 and the reports of unsatisfactory work by the workmen Ex. M-3/1 and Ex. M-3/2. He also proved his enquiry finding Ex. M-5 and standing orders Ex. M-6. In cross-examination he stated that he was the Personnel Manager. He further denied a suggestion that he was partial for the management. He denied that he recorded the statement of the witnesses when the witnesses were not present. He further denied that the workman was assaulted in the factory premises. He further denied that the workman had attended.

the factory on 24th February, 1977 in a state of illness. He further denied the suggestion that the workman remained ill for several days after 24th February, 1977. He further stated that whatever application was given by the workman to him, he has placed it on the file of the enquiry proceedings. He also denied that he had refused leave to the workman intentionally and that the report against the workman had been made prior to the workman had applied for leave. He admitted his signatures on Ex. W-1, and that Ex. W-2 and W-3 pertained to the management but they were without signatures of any person. He denied that Ex. W-2 and W-3 were produced before him but stated that he did not remember if Ex. W-1 was presented to him or not.

W-1 the workman concerned deposed that he was ill on 24th February, 1977. He went for taking leave but the management asked him to attend the machine although his immediate boss has allowed him gate pass with which he again went to the management. He liked that the management should sanction his gate pass and, therefore, he remained on the machine, but he did not work. The workman further stated that he was charge-sheeted for not working on that day. He took leave on and from 25th February, 1977, after going to the E.S.I. hospital, he remained on medical leave for two weeks. He stated that the charges were false and the witnesses for the management were interested for the management and that he was not allowed for cross-examining Shri T. K. Narainan in the said enquiry who was witness for the management and that he was not given any transfer letter. He stated that enquiry was held on false allegation to victimise him for trade union activities. In cross-examination he admitted that he had participated in the enquiry and has signed at several places under coercion and he did not complain in writing about coercion but he had told about it to the Personnel Manager. He further admitted that he did not give his objection in writing to the management that the enquiry was not held properly although he made oral complaint. He further admitted that he had received copies of all the enquiry proceedings. He further stated that he had produced a copy of application for leave on 24th February, 1977 to the enquiry officer but he did not mention it in the enquiry proceedings. He further admitted that he had signed his statement in enquiry proceedings, but did not know what was written as his statement. He further admitted that he

knew Hindi and signed the proceedings after they had been recorded.

From consideration of the evidence of the parties and of enquiry proceedings, it is clear that this statement of the workman that he signed the enquiry proceedings under coercion is an after thought as it is not mentioned by him earlier. It is not in dispute that the workman participated in the enquiry. The workman admits it. The enquiry proceedings are signed by the workman whenever he was present. The workman also admitted that he had received all the copies of all the enquiry proceedings. The enquiry proceedings reveal that the workman has also cross-examined the witnesses for the management and he had also led his defence by giving his own statement. His statement is also signed by him. By the time enquiry proceedings concluded, the workman has nowhere made allegation that he had been victimised for trade union activities. I have also perused the reply of the charge-sheet in which also he has made no mention of his trade union activities, although his stand that he was ill on 24th February, 1977 is from the earliest stage. The allegation of the workman that he was victimised for trade union activities and he was charge-sheeted for trade union activities is an after thought and appears for the first time after the termination of his services. It is in the admission of the workman before me as W.W. 1, that he remained on his machine, but did not work. Although he has stated reasons, therefore, and reason was that he wanted sanction for his gate pass and, therefore, he was on his machine. He has also stated that he was not given any transfer letter, but in the earlier part of his statement he did not state that the machine was not his where he remained and did not work. The learned representative for the workman argued that the workman was ill on 24th February, 1977. The workman has produced Ex. W-1 which is a portion of his leave application, in which also the workman has not described medical leave but has described leave only which was not granted. Ex. W-2 and W-3 are of no avail. It is not signed by any person. In Ex. W-2, the time shown is 8.45 a.m. to 5 p.m. and in Ex. W-3 the time shown is 1.45 p.m. to 5 p.m. Para No. 4 of the written statement reads that the workman reported for duty at 8.05 a.m. and was allotted work and did not carry out instructions to work. When the workman attended his duty at 8.05 a.m., it is strange that he wanted a

gate pass at 8.45 a.m. as mentioned in Ex. W-2. It seems that when he was allotted work he applied for gate pass. The workman has stated that he took medical leave from 25th February, 1977, but he also did not produce any record or document to prove that. In his claim statement he has stated that he had gone to the E.S.I. dispensary Havel for getting medical aid at 5.30 p.m., on 23rd February, 1977, but the clerk gave him a suggestion for bringing some form for the purposes that has also not been proved by the workman. The learned representative for the workman further argued that Shri T. K. Narainan the Foreman could not be cross-examined by the workman in the enquiry proceedings as the management did not produce him for cross-examination. To this the learned representative for the management argued that his examination-in-chief may be overlooked and not considered. Even then there is other evidence to prove the charges and that other evidence has proved the charges. Therefore, neither the finding of the enquiry officer is vitiated nor it can be held that principles of natural justice have not been followed in enquiry proceedings.

The enquiry officer has examined Shri Krishan Kant and Shri C. B. Mathur in addition to Shri T. K. Narainan and the finding of the enquiry officer find support from their evidence and it is based on evidence. It is correct that the workman has cross-examined both these witnesses but could not cross-examine Shri P. K. Narainan. When Shri T. K. Narainan deposed in examination-in-chief that the workman had prayed for time for cross-examining him. The management stated on 12th April, 1977 that Shri P. K. Narainan had gone on leave and they could not produce him that day.

The law is very clear on this point. If a witness has not been cross-examined, his examination-in-chief cannot form evidence but thereafter the question is that two other witnesses for the management were examined and the workman has cross-examined them and if the finding is supportable on their evidence, the finding can not be said as based on "no evidence", therefore, also, it cannot be held vitiated. The workman examined himself, Shri Karam Singh and Shri Raghu Nath Singh as his witnesses. The enquiry proceedings have been adjourned 2/3 times on the request of the workman and the workman has

cross-examined the witnesses for the management named Shri Krishan Kant and Shri C. B. Mathur and has also given his defence by examining himself and two witnesses and has signed the enquiry proceedings, therefore, it cannot be held that the enquiry has not been held in accordance with principles of natural justice. Principles of natural justice have been followed in this enquiry. The workman has been given all opportunities of cross-examination and of leading defence and even adjournment at his request. The workman in his defence has examined two witnesses who had deposed that when a workman is transferred from one department to the other, a transfer order is issued. It means that at enquiry proceedings the workman wanted to make his defence that as he was not issued transfer orders, hence he was not bound to work on that machine. Shri Krishan Kant is Production Engineer and Shri C. R. Mathur is Manager Production Planning. Both these witnesses had deposed before the enquiry officer regarding the misconduct on the part of the workman, that the workman did not do work in spite of instructions. The allegation of the workman that he was victimised for his trade union activities cannot hold good in view of the fact that his representative even did not put a single question in cross-examination in this respect to M.W. 1. In enquiry proceedings the workman has stated in cross-examination that he was suffering from fever in the evening of 23rd February, 1977, but he did not go to the dispensary nor took any medicine. Then he stated that it was night time and the dispensary had been closed. He had stated that when he attended duty on 24th February, 1977, he thought that he could work but 15/20 minutes thereafter when Mr. Narainan came to him and asked him to work he was in bath-room and again when Shri Narainan came and asked him as to why he was not working, he told that he was not feeling well. Moreover Shri Raghu Nath Singh has stated in enquiry that when he was sent from one machine to other in the same department, he did not receive any formal order but had received such orders on transfers only from one department to the other and not for change of machine. In enquiry, the workman also stated that he did not go to first-aid room of the factory as the medicines for his disease were not available there. He also stated that he did not go to the dispensary even at lunch time. because his condition was very bad, as he had no senses at that time for going to the dispensary.

The enquiry officer has believed in the statement of the witnesses for the management and has not believed in the defence of the workman. But there it does not lie in my jurisdiction to say that he should have believed the defence version, nor I am an appellate authority over the finding of the enquiry officer. I even cannot substitute my judgment for the finding of the enquiry officer. The law is very clear on this point and has been well settled. If it appears to the Presiding Officer that a different finding could also be substantiated on the evidence before the enquiry officer, the Presiding Officer cannot hold that the enquiry officer should have given that different finding. The jurisdiction of the Presiding Officer in the matter of the domestic enquiry is very limited. Even if a different finding looks to him more reasonable, the Presiding Officer cannot substitute that different finding for the finding given by the enquiry officer.

The Presiding Officer has to see two things only in the matter of the domestic enquiry.

- (1) Whether the enquiry has been held in accordance with the principles of natural justice.
- (2) That the finding is not perverse. The finding is perverted when it is based on no evidence.

In this case principles of natural justice have not suffered as discussed above. Secondly the finding is not perverted as the finding is based on the statement of the two witnesses for the management.

I, therefore, hold that the domestic enquiry has been held in accordance with the principles of natural justice and is not vitiated. I also find that the findings of the enquiry officer is not perverted. So issue No. 1 is decided in favour of the Management. When I have held the domestic enquiry fair and proper and in accordance with the principles of natural justice, no further question remains. The management has filed certified standing orders. The act of workman fall under sub-clause (6) of clause 25 describing misconduct. Clause 26 of the standing orders provide the punishment of dismissal if an employee is found guilty of misconduct.

After deciding issue No. 1 in favour of the management and considering the certified standing orders of the management, their remains

nothing further to be done. I, therefore, answer the reference and give my award that the dismissal of Shri Mahabir Singh was justified and in order. He is not entitled to any relief.

Dated the 13th July, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 665, dated the 14th July, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 14th July, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3 Lab/78/7224.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad; in respect of the dispute between the workmen and the management of M/s Panipat Co-operative Sugar Mills Ltd., Panipat.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD

Reference No. 193 of 1973.

between

THE WORKMEN AND THE MANAGEMENT OF
M/S. PANIPAT CO-OPERATIVE SUGAR
MILLS LTD., PANIPAT.

Present :

Shri Raghbir Singh, for the workmen.

Shri Ranbir Singh Malik, for the management.

AWARD

By order No. ID/KNL/13-T-73/44345, dated 20th November, 1973, the Governor of Haryana;

referred the following disputes between the management of M/s. Panipat Co-operative Sugar Mills, Ltd., Panipat and its workmen to this Tribunal; for adjudication in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the workmen coming daily from nearby villages should be granted cycle allowance? If so, with what details?
- (2) Whether the workmen of manufacturing department detained for cleaning purpose during off season should be made permanent? If so; with what details?
- (3) Whether the vacant posts in the factory should be filled up by promotion on seniority basis? If so; with what details?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed by my learned predecessor on 25th April, 1975.

- (1) Whether the demands, the subject-matter of the present reference, do not constitute Industrial Disputes as defined under section 2(k) of the Industrial Disputes Act, 1947?
- (2) Whether the workmen coming daily from nearby villages should be granted cycle allowance? If so; with what details?
- (3) Whether the workmen of manufacturing departments detained for cleaning purpose during off season should be made permanent? If so; with what details?
- (4) Whether the vacant posts in the factory should be filled up by promotion on seniority basis? If so; with what details?

The parties led their evidence and closed their case. Arguments were heard. I have considered the evidence on the file.

ISSUE NO. 1

The workmen examined Shri Som Parkash W.W. 1; Shri Kartar Singh; W.W. 2; and closed

their case. Thereafter the management moved an application for amending their written statement which was allowed subject to payment of cost of Rs 20 only; to which the workmen filed rejoinder and then again the following issue was framed on 21st November, 1975:—

- (1) Whether the demand leading to dispute No. 3 is barred under a settlement dated 3rd September, 1973?

I now give my findings on issue No. 1. There is nothing on the file as to why the dispute does not constitute an industrial dispute nor the management argued on this issue. I, therefore, decide this issue against the management and hold that the dispute referred to constitute an industrial dispute.

ISSUE NO. 2

W.W. 1, who is General Secretary of the Mazdoor Sabha, has deposed that the workmen were allowed Bonus at the rate of 20 per cent besides one month's wage as incentive bonus for the years 1973-74 and 1974-75. He further deposed that 40 per cent of permanent workmen and 50 per cent seasonal permanent workmen come from villages to attend their duty on cycle as houses are not available on reasonable rent and they have to spent Rs 20 to 30 per month for maintaining the cycles. They admitted in cross-examination that house rent allowance is paid since July, 1973. The management examined M.W. 1 Shri Baij Nath Sharma who admitted the payment of house rent allowance to the workmen and stated that it is paid for this purpose that the workmen should live at Panipat. He further stated that he had no knowledge of cycle allowance being paid to any workman of any factory situated near Panipat. He further stated that no cycle allowance is paid to the workmen in any Sugar Factory in Haryana. He in cross-examination stated that there are about 100 residential quarters, constructed by the management of various types and the rent is charged from the workmen according to the type of quarters. He could not tell the rate of rent of these types of quarters, nor he could give the rate of rent prevalent in the locality near the factory. He further stated that there are 20/25 workmen coming on cycles to the factory. He put this figure 20 or 25 on the basis of his idea regarding the cycle standing in the factory premises in the day time but he stated that total

number of workmen in all shifts is about 300, and in season about 1100 workmen working in the factory. In re-examination he stated that the number of cycles about 300 or 400 relates to the period of season but in cross-examination he could not give the number of cycles coming to the factory during off season period. The management also examined M.W. 2 Shri M. L. Bhatnagar, Chief Chemist who is silent on cycle allowance.

I think the claim of the workmen to cycle allowance is not adequately rebutted by the management. It would be proper to allow cycle allowance to the workmen who come from far off villages. It would not be proper to allow cycle allowance to the workmen who come from near by villages, hence some limit have to be fixed. I, therefore, fix this limit of distance from the factory at 7 K.M. Moreover the demand of Rs 20 to 30 against cost of repairs of cycles is excessive. I fix it at Rs 10 only. I, therefore, decide this issue in this way that cycle allowance at the rate of Rs 10 P.M. to those workmen only who come from villages lying at a distance of 7 K.M. or more should be paid to them.

ISSUE NO. 3

W.W. 1 has not given any substantial statement on this issue. W.W. 2 has stated that there are 40 colliers working in the manufacturing department who worked through out the year with intermitent break during off season despite availability of work and that the colliers who worked at the homes of the officers are employed for the whole year and not others. He however, stated that colliers numbering 20 to 30 worked during off season and manufacturing work goes on even during off season and that colliers are called to work during off season according to the discretion of the management. M.W. 1 is silent on this point who stated that main work is done in season, and during off season there is a miscellaneous type of work such as cleaning, scriping, brushing and painting of machines. The work is intermitent, neither regular nor continuous. He further stated that whenever the management feel the need of work in off season, they call persons for that purpose. Generally preference is given to the workmen who worked in season period and are seasonal permanent and that these colliers cannot be employed permanently in off season. The representative for the workmen could not get any point in his favour on this issue from the cross-examination of this witness. Moreover there is no documentary evidence on this issue. The regular and continuous necessity of work during

off season by these colliers could be proved from documents and the workmen could summon the documents of the management. The evidence of W.W. 2 alone is not reliable. On this issue the statement of M.W. 2, who is chief chemist in this Sugar factory is not reliable and dependable. The nature of work of these colliers is not such that they can be kept permanently for the whole year. I, therefore, decide this issue against the workmen.

ISSUE NO. 4

W.W. 1 stated in cross-examination that recommendation of the second wage board relating to Sugar Industries are inforce and are mostly being implemented. There is no substantial evidence on this point by the workmen. This is a Co-operative Sugar Mills having rules and regulations. The onus of this issue is on the workmen and they failed to discharge the onus. Moreover, W.W. 1, the General Secretary of the Mazdoor Sabha has admitted that the recommendation of the second wage board are inforce and are mostly implemented. In absence of reliable evidence, I can not decide this issue in favour of the workmen and decide it against the workmen. Now I come to issue No. 1 as framed on 21st November, 1975.

ISSUE NO. 1—as framed on 21st November, 1975,

The management have pleaded a bar of settlement dated 3rd September, 1973 to this demand. A certified copy of the said settlement is on the file according to which the dispute No. 3 forming the subject-matter of issue No. 4 was settled. The other demand settled was for the revision of grades of the Cane Clerk. Two demands were not settled. These demands have not been specified. It is stated in that settlement that demand Nos. 5 and 6 were withdrawn by the union but these demands have not been mentioned. Demand No. 7 was granted, hence was withdrawn. This settlement is vague except for the principle to be followed in filling of the vacant post was settled, hence I hold that settlement Ex. M-1 does not bar dispute No. 1 and 2 but bars only dispute No. 3. I decide this issue accordingly.

As a result of my discussions on the above issues, I answer the reference and give my award as follows:—

- (1) That cycle allowance at the rate of Rs 10 P.M. should be paid to those workmen only who attend their duty on

cycle from villages situated at a distance of 7 K.M. or more from the factory and not to those workmen who attend duty coming on cycles from villages situated at a distance of less than 7 K.M.

- (2) The workmen of manufacturing department detained for cleaning purposes are not entitled to be made permanent. No details are necessary.

- (3) Dispute No. 3 regarding filling up of vacant posts stands settled as per settlement dated 3rd September, 1973. The vacant posts shall be filled up as per that settlement.

Dated the 10th July, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 649, dated the 11th July, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments; Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 10th July, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3Lab.-78/7225.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Melco Precisions, 16/4, Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 32 of 1977
between

SHRI SOFWAN WORKMAN AND THE
MANAGEMENT OF M/S MELCO
PRECISIONS, 16/4, MATHURA ROAD,
FARIDABAD.

Present : Shri Onkar Parshad, for the
workman.

Shri S. L. Gupta, for the ma-
nagement.

AWARD

By order No. ID/7547, dated 2nd March, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Melco Precisions, 16/4, Mathura Road, Faridabad and its workman Shri Sofwan, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Sofwan was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the date fixed the workmen did not appear. It seemed that the workman was not interested in pursuing the case and has rendered the case liable to dismissal in default but afterwards the representative for the workman moved an application for setting aside of *ex parte* order which was set-aside. The following issues were framed on 5th July, 1977 :—

- (1) Whether the workman had received his dues in full and final settlement of his dispute as per oral agreement ?
- (2) Whether the termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?

The case was fixed for the evidence of the management. The management examined Shri V. K. Malik, the Partner,

of the management as M.W. 1, who stated that the workman was charge-sheeted and his reply not being found satisfactory, domestic enquiry was ordered while the enquiry was proceeding the workman came to him and desired a settlement. He demanded a sum of Rs. 529.85 which was paid to him. He had brought the original voucher and produced a photostat copy thereof and stated that the amount was paid to the workman in his presence. He further stated that the contents of the voucher Ex. M-1, were explained to the workman and that Ex. M-1 bear the signatures of the workman. The management also examined Shri Jai Kishan Dua their office clerk as M.W. 2, who stated that the amount was paid to the workman in his presence and that Ex. M-1 was prepared by the Accountant. The management also examined their Ex-Accountant Shri Mohinder Parshad as M.W. 3, who stated that the partner Shri Malik called him to prepare the accounts of the workman including all his earned wages and one month's notice wage. He prepared the accounts and he paid him. He endorsed on the voucher that the workman was paid all his dues in full and final and he read that endorsement to the workman who consented. In cross-examination, he stated that he did not know whether the workman was suspended or not. He admitted the charge-sheet. He could not give details of the period of earned wages of the workman but stated that it was for some days of August, 1976. He further denied a suggestion that revenue stamp were affixed on the voucher after the workman had signed it. He admitted that he prepared the voucher. The management then closed their case.

Then the case was fixed for the evidence of the workman on 14th April, 1978. 14th April, 1978 being declared public holiday, the case was fixed for the evidence of the workman on 22nd May, 1978. The representative of the parties had noted this date, but on 22nd May, 1978, the representative for the management appeared but the representative for the workman did not appear despite the fact that he had noted the date. Even then

the notice was sent to the workman which was served to the workman, C/o Bhartia Mazdoor Sangh. The reference is also C/o Bhartia Mazdoor Sangh but even then neither the workman nor their representative appeared on the date fixed. The representative for the workman appeared. The representative for the management stated that the workman had also received a sum of Rs 200/- more in full and final payment of his service pay and gratuity as per settlement. He filed the settlement Ex. M.A. purported to have been signed by the workman and witnessed by Shri Lal Chand, the Secretary, Bhartia Mazdoor Sangh. The settlement reads that the workman had settled his dispute and that there was no dispute thereafter. The workman prayed in the settlement that his case be filed. The management also produced a photostat copy of the voucher Ex. M. B. for a sum of Rs. 200/- only, duly stamped and purported to be executed by the workman. Service pay, gratuity as per settlement finds place in this voucher Ex. M.B. Neither the workman nor the representative for the workman appeared on the date last fixed and the representative of the workman had knowledge of this date as he had noted and then the management produced a settlement Ex. M.A. and copy of voucher Ex. M.B. The circumstances proved that the workman had settled his dispute and had received all his dues.

I, therefore, answer this reference and give my award that the termination of services of Shri Safwan, the workman concerned, was justified and in order. He is not entitled to any relief. He has settled his dispute and now the dispute does not exist between the parties.

Dated, the 10th July, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 648, dated the 11th July, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour

and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated the 11th July, 1978.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-3Lab-78/7228.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Berysons India (Pvt.) Ltd., Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 154 of 1975.

between

SHRI BABU RAM, WORKMAN AND
THE MANAGEMENT OF M/S BERRY-
SONS INDIA (PVT.) LTD., MATHURA
ROAD, FARIDABAD.

Present:—Shri Madhu Sudan Saran Cowshish and Shri Amar Singh Sharma, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/60601, dated 22nd September, 1975, the Governor of Haryana, referred the following dispute between the management of M/s. Berysons India (Private) Limited, Mathura Road, Faridabad and its workman Shri Babu Ram, to this Tribunal for adjudication, in exercise of the powers conferred

by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Babu Ram was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 21st January, 1976:—

(1) Whether the termination of services of Shri Babu Ram was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management. The management examined Shri N. S. Begana, their Personnel Incharge who is stated that the workman was appointed temporarily,—vide Ex. M-1 at the wage of Rs. 131/- P.M. and that Ex. M-1 bear the signatures of the workman at mark 'A'. He further deposed that the workman worked for six months and thereafter his services were terminated. He proved report Ex. M-3 and M-4. Ex. M-2 is a letter terminating the services of the workman. The Supervisor found the work of the workman unsatisfactory. He also proved the remark of Shri A. K. Berry, their Director. He further deposed that they received orders from M/s. Escorts from time to time and, therefore, they engaged workman temporarily. In cross-examination, he stated that they were paying Minimum Wages including costs of living index. He admitted that costs of living index from January, 1975 to 20th May, 1975 was not paid to the workman on account of receipt of notification of the Haryana Government subsequent to 20th May, 1975 and that day have been applying helper even after 1975. No warning was issued to the workman. He denied a suggestion that Ex. M-1 does not bear the signatures of the workman. He denied that the workman was victimised for trade union activities relating to payment of costs of living index. The management also examined one Shri Kartar

Singh, the Supervisor, who proved his report and his signatures on Ex. M-4/A. He also proved the remarks of the Director. He further stated that the workman did not improve his work. Then again, he made a report and then the Director passed the remarks at point 'B' on Ex. M-3/A. He admitted the correctness of his complaint written by some other person on his dictation. He denied that he gave the report under orders of the Director and he simply signed the report. He admitted the difference in ink in his hand writing and in the writing of the Director and in the writing of the report. He stated that he had orally told the workman to improve his work. He denied that the workman were turned out of service on account of organising or trade union. He expressed his ignorance regarding standing orders as he was unconcerned. The management then closed their case.

Then the case was fixed for the evidence of the workman. The workman examined himself as W.W. 1 who stated that the management was paying over time at single rate. They began to form a union and raised the demand in that connection. The management threatened him to turn him out but he did not stop his trade union activities and therefore, his services were terminated. In cross examination he admitted that the factory manufacturers articles for M/s Escorts and the demand of M/s Escorts generally remain about the same. He denied the signatures on Exhibit M-1, but admitted his signatures on Exhibit M-5 and M-6. He admitted his signatures on Exhibit M-2. He could not remember the name of the union. He denied that it was a simple termination of his services as he was temporary workman. The workman closed his case. My finding on issue No. 1 are as follows:—

ISSUE No. 1

I have seen the signatures on the demand notice on Exhibit M-1 and on M-2 and M-5. They resemble. Exhibit M-1 is the letter of appointment of the

workman, dated 19th November, 1974. It is for 12 months. It is for a temporary appointment. It reads that the services of the workman could be terminated without notice or one month's notice wage. Exhibit M-2, dated 20th May, 1975 is a letter terminating the services of the workman on the afternoon at 1.00 P.M. on 20th May, 1975. Exhibit M-4/A and M-3 are the reports of the Supervisor regarding the unsatisfactory work of the workman. These are the only documents on the file. The workman was appointed on 19th November, 1974 for 12 months on temporary basis. The period of 12 months expired on 18th December, 1975. Although there are reports of unsatisfactory work of the workman by the supervisor, These are dated 2nd May, 1975 and 19th May, 1975 just prior to the termination of services of the workman. There is no other report of unsatisfactory work of the workman prior to May, 1975. Exhibit M-1 the letter of appointment is a contract of service. No where it is mentioned therein that the services of the workman could be terminated if his work was found satisfactory. Rather Exhibit M-1 mentions that the workman was employed for 12 months on temporary basis. The management could not terminate the services of the workman prior to 12 months of the letter of appointment. The management at the earliest could terminate the services of the workman on 19th November, 1975, as the workman was temporary, but not prior to that. I, therefore, decide issue No. 1 against the management.

As far as relief is concerned, the period of service of the workman has already expired on 19th November, 1975 as he was temporary and he was appointed temporarily for 12 months only, hence question of his reinstatement does not arise, as his reinstatement would be against the terms of his appointment. The service of the workman were terminated on 20th May, 1975 afternoon. He is entitled to wages from 20th May, 1975 to 19th November, 1975 at the rate of Rs. 131 P.M. The termination of services of the workman

was unjustified as discussed above and he has been put to harassment for no fault of his, he is entitled to compensation which I assess at Rs. 500 plus the cost of these proceedings which I assess at Rs. 250 only. As a result of my above discussions I answer the reference and give my award that the termination of services of the workman concerned was neither justified nor in order, but he is not entitled to reinstatement as discussed above. He is entitled to six months wage at the rate of Rs. 131 P.M. from 20th May, 1975 to 19th November, 1975 plus Rs. 500 as compensation and Rs. 250 as cost of these proceedings.

Dated the 12th July, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 657, dated the 12th July, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 12th July, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 27th/28th July, 1978

No. 11(112)-3 Lab-78/7229.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute of between the workman and the management of M/s. Mahavir Metal Works Ltd., Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 32 of 1977.

between

SHRI RAM PRAVESH, WORKMAN AND
THE MANAGEMENT OF M/s.
MAHAVIR METAL WORKS
LTD., FARIDABAD

Present :

Shri K. K. Sirivastva, for the
workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/10968, dated 9th March 1977, the Governor of Haryana, referred the following dispute between the management of M/s Mahavir Metal Works, Ltd., Faridabad, and its workman Shri Ram Pravesh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of Services of Shri Ram Pravesh was justified and in order? If not, to what relief is he entitled.

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed on 2nd July, 1977.

- (1) Whether the termination of services of Shri Ram Pravesh was justified and in order? If not, to what relief is he entitled?
- (2) Whether workman concerned is gainfully employed elsewhere? If so, where since when and at what wage?

The case was fixed for the evidence of the management. The management produced a voucher stating that the workman has settled his dispute fully and finally. They also produced the settlement. The workman admitted the execution of the voucher but stated that the amount was not paid to him and the voucher was without consideration. Then the management examined Shri Balwant Rai Nagia, Labour-cum-Conciliation Officer, as M.W. 1 who deposed that the voucher Ex. M-1 bore the signatures and that the amount of Rs. 1,400 was paid to the workman in his presence and, therefore, he made the endorsement on the voucher and signed it. In cross examination he stated that the payment was made to the workman in his office. He also identified the workman who was present in court. The management closed their case.

Then the case was fixed for the evidence of the workman, who examined himself as W.W.1 who denied payment at all and also before the Labour-cum-Conciliation Officer. He further stated that the management had called him in his office and had threatened him to sign the voucher and he signed in a state of fearfulness. The workman further stated that some domestic enquiry was held against him about two years back and that enquiry was completed in a single day. In cross examination he stated that he was called in the office by the management after 5 P.M. and that Mr. Jha resided near his quarter who had called him and that he signed half an hour after reaching the factory. He admitted that he did not complain to the police nor to any other officer except the Manager of the factory. He had not brought the copy of the complaint. The workman closed his case. Arguments were heard.

The Labour-cum-Conciliation Officer has stated on oath that a sum of Rs. 1,400 was paid to the workman in his presence and he identified the workman also. There is nothing to disbelieve the statement of this witness. Moreover the statement of the workman does not convince me that he did not receive the

amount and signed the voucher under threats. I, therefore, hold that the workman executed the voucher received the sum mentioned therein amounting to Rs. 1,400. The settlement also purports to bear the signatures of the workman, which witnesses that this amount was received by the workman in full and final settlement of all his claim including earned wages, leave wages, bonus, gratuity etc. and that the workman gave up his right of reinstatement or re-employment. The settlement is in English and the workman has also signed in English. Similarly, the voucher has been signed by the workman in English. The workman does not seem to be illiterate person and he has signed in English. The amount of Rs. 1,400 give all the details of the dues. Even the amount against gratuity has been paid. To me the settlement appears just and fair. I, therefore, answer the reference and give my award in terms of the settlement as follows:—

That the workman has received a sum of Rs. 1,400 only against all his claims and dues. He is not entitled to reinstatement, nor to any other relief.

Dated the 11th July, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 658, dated the 12th July, 1978.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 12th July, 1978.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.